

ATKINSON PLANNING BOARD
Atkinson, New Hampshire

Workshop Meeting
Wednesday, November 5, 2003

**Present: Susan Killam, Chairman; Paul DiMaggio, Vice-Chairman (7:43);
Michael Fletcher (7:50); Chuck Earley; Nicole Cheney (8:21); Harold Morse**
Alternates: Donna Sullivan; Ted Stewart; Joseph Guischart

Ms. Killam called the meeting to order at 7:38 P.M.

CORRESPONDENCE

Incoming

1. Board of Adjustment letter to Attorney Bernard Campbell dated 10/17/03 re: Daniel Osborn, Hemlock Shore Drive, Map 22, Lot 57.
2. Board of Adjustment letter to Mr. Randal Bing dated 10/21/03 re: 13 Hemlock Shore Road, Map 22, Lot 90.
3. Board of Adjustment letter to Mr. Peter Ashworth dated 10/21/03 re: Storage of Vehicles, 5 Leroy Avenue, Map 13, Lot 80.
4. Rockingham Planning Commission dated 10/15/03 re: Annual Dues.

Dues are \$5561.00, an increase of \$132.00.

5. Keach-Nordstrum letter dated 10/20/03 re: Amended Plan review cost estimate for Cosgwell Farm.
6. City of Haverhill Legal Notice for hearing dated 11/12/03 & 11/25/03.
7. Town of Derry Legal Notice for hearing dated 11/5/03.
8. Zoning Board Legal Notice for meeting of 11/12/03.
9. Sumner Kalman dated 10/3/03 re: Currier v. Town of Atkinson.
10. Planning Board Budget Printout dated 10/31/03.

APPROVAL OF MINUTES - OCTOBER 1 and 15, 2003

The minutes of October 1, 2003 were reviewed.

Mr. DiMaggio made a motion to approve the minutes of October 1, 2003 as written. Mr. Earley seconded the motion. Motion approved unanimously.

The minutes of October 15, 2003 were reviewed and the following corrections made:

First page, last paragraph, change 'Mr. Boucher' to 'Mr. Kalil' and the same on Page 2, first full paragraph.

Page 3, second full paragraph, fourth sentence, delete the first 'it'.

Page 5, third paragraph, third sentence, change '1-1/2 slope' to '1-1 1/2' slope.

Mr. Earley made a motion to approve the minutes of October 15, 2003 as amended. Ms. Sullivan seconded the motion. Motion approved. Mr. Morse abstained.

The discussions were opened at 8:00 P.M.

Discussion

1. Sylvain Construction - Lee Stephens Re: Proposed business usage (garage) at 56 Island Pond Road, Map 20, Lot 2, CI & CP Zone.

Mr. Stephens reported that he is looking to lease this building with an option to buy for use as a showroom, storage warehouse and office space for sunroom windows. He is before the Board for feedback from the Board and to see if they had any concerns with what is proposed. The plan shown dates back to 1993. There was a revision date from 1997 that was never approved.

The lot in question falls into three different zones and the Board reviewed the allowed uses in these zones. It was noted that the lot has been cleaned up. There are no plans at this time to build on this lot or for enlarging the footprint. A proposed garage is shown on the plan and Mr. Stevens asked if the garage would still be part of the plan if they wanted to build one in the future.

It was suggested that the applicant contact their neighbors to see if they had any issues and Mr. Stephens agreed to this. Ms. Killam noted that one of the issues a neighbor had with the site was in the screening and Ms. Killam suggested the applicant research the planning to make sure the screening shown on the plan has been adequately created. Mr. Earley noted that there is a sliding glass door on the second floor, which is the second exit and must be used as a fire exit.

There would be some trailers that would pull in to unload. The sprinkler system and emergency lights must be updated to make sure they still work. Mr. Stevens stated that their intent is to put in a new heating system and air conditioning system as well. Mr. Sylvain reported that they have a showroom in Shaw's Plaza, which might be closed.

The Permitted Use Chart was reviewed. The major parcel is in the CP Zone, which allows for interior warehouse storage, retail and office space and light manufacturing. The applicant noted that there will be no manufacturing at the site, there will be some assembly. Mr. Stewart noted that there is no accessory use allowed and questioned the proposed garage. Ms. Killam thought this was an unusual restriction for these zones and that more than one building should be allowed in the commercial zone. Ms. Killam noted that the garage would have to be in the exact same location and use.

As a courtesy Ms. Killam suggested the applicant provide a statement of intent detailing hours of operation, noise level, etc. Mr. Stephens asked about the

parking situation. At this time there are about 5 spaces. This business employs approximately 13 employees. Most of the employees will be out in the field during the day and are not on site, but they may be there in the morning. The parking and sewage flow ordinance was reviewed. There could be about 7 trailers parked there (7' x 14' would be the largest), some covered and some opened. Mr. Stephens asked if more parking could be added.

Ms. Killam stated that if the plans were going to be changed the Board would like them to be drawn up and presented. The applicant agreed to do this. Mr. Stephens referred to a portion of the site where a proposed building was going to go and asked if that could be turned into parking spaces. Ms. Killam stated that if the applicant chooses to do this he would need an Amended Site Plan and Mr. Stephens agreed. He was reminded to include signage, lighting, etc.

The discussion was closed at 8:26 P.M.

The next discussion was opened at 8:27 P.M.

2. Continued review/discussion re: Open Space Calculations and Roadway Design on 6 lot Rural Residential Cluster on 15.6 acres located at 33 Maple Ave., Map 9, Lot 33, RR2 Zone.

This application is back before the Board for further discussion because of an issue with the Open Space Calculations. This plan has not been taken under jurisdiction. In this plan the open space was calculated after the roadways were taken out. The way it has been done in the past is to take 50% as open space and the other 50% as developable area including roadway.

After reviewing page Z29 the Board agreed that this regulation has never been interpreted like this before but that it could be interpreted this way. Discussion continued on the intent of the regulation. It was felt that the intent was to take the 50% as open space and it was noted that other subdivisions calculated the same way.

James Hanley, Engineering Alliance explained how they came to interpret the regulation as they did and did not agree with the wording. Mr. Keach had made the applicants aware of what had been done in the past and Ms. Killam noted that this has never been questioned. Mr. DiMaggio stated that we want 50% and we are not going to count the roads or the parking or the infrastructure. What we didn't do was put in brackets 'is not part of the open space' in the ordinance. The Board researched the calculations of other subdivisions and they had been calculated at 50/50.

The Board was polled.

How do we calculate open space in a cluster, is it the way it has been consistently done as 50/50 before road design or should we allow the applicant to take out the roads before calculating?

Mr. Morse felt that the applicants had spent money and time on this plan based on what our ordinance states. He felt their interpretation should stand and the ordinance corrected so that it will not be misread again. Ms. Killam noted that we could remain consistent and leave the interpretation to the Zoning Board of Adjustment.

Ms. Cheney felt we should stay with the intent and it should stay as 50/50.

Mr. Earley - stay with 50/50.

Ms. Sullivan - stay with 50/50.

Mr. Guishard - they should not be penalized for a mistake in our regulations.

Mr. Fletcher - stay with 50/50.

Mr. Stewart - he agreed that the applicants have invested money in this and that we should change the ordinance so that this does not happen again.

Mr. DiMaggio - stay with 50/50 - he noted that the applicant could go to the Zoning Board of Adjustment for relief. He felt that the applicants are educated in reading plans and regulations citing historical precedent.

Ms. Killam stated that she never read this regulation two ways before and would like to see it administered the way it always has been.

Mr. Earley asked if a letter from the Planning Board would help. Mr. Morse noted that it costs a lot of money to go the Zoning Board. Mr. Hanley stated that his intent was not to look for a loophole in the ordinance. He has worked with other towns that used the 50/50 calculation. Mr. Hanley noted that when the Board was polled the term 'interpretation' was used. This would mean that everyone focused in on this ordinance and came up with a determination in their mind as to what it meant. There is a difference between that and an assumption. If it's never been questioned before he wasn't sure if the precedent at that point has the same magnitude. The applicant felt he was correct in his interpretation and it was unfair to penalize them noting that the bylaw would be changed because of this. Ms. Cheney added that based on the words the ordinance could be misinterpreted but the decision is based on the intent.

Ms. Killam stated that it has always been understood that the intent of this ordinance was 50/50 and this will stand.

There was significant discussion with the Town Engineer about the grade of the slope on the side of the roads and the minutes of the last discussion were read. The minutes state that the applicant would be requesting a waiver from the grading requirement of a 2 to 1 slope to a 1 to 1 slope. Mr. Keach did not recommend going below a 1 to 1 1/2 slope and recommended using a permanent cover such as erosion stone. Mr. Keach noted that there is good opportunity for an accidental encroachment. The applicant stated that at the last meeting they had 5700 sq.ft. of wetlands disturbance the result of the roadway grade and the side slopes coming into the wetland area. After the discussion the plan was changed to show a 1 1/2 horizontal to 1 vertical slope and the

disturbance has been cut down buy approximately 850 sq.ft. Guardrails are required. The shoulder was increased from 3' to 5'. The applicant has met with the Road Agent and Fire Chief. The houses will be sprinkled and the Fire Chief intimated that a 22' road would be sufficient. Test pits have been completed. Two 36" pipes will replace the one 60" pipe to increase capacity. There is no public water.

The applicant stated that they stand to lose one lot with the 50/50 calculation but will analyze the test pits and maybe reduce the size of the lots. Mr. Kukshel, Chairman of the Conservation Commission was present and asked for further explanation on how the change in the side slope effected the wetlands impact and that was explained.

A waiver request for the roadway width and side slopes will be presented at their next hearing.

Mr. DiMaggio made a motion to deny taking this plan under jurisdiction because it does not meet the zoning requirements of open space in a cluster subdivision. Mr. Earley seconded the motion. Motion approved - 5 in favor - Mr. Morse opposed. The discussion was continued to the next Public Hearing meeting.

The discussion was closed at 9:31 P.M.
The next discussion was opened at 9:33 P.M.

3. Public Hearing procedures regarding Zoning Changes.

Scott Kukshel, Chairman of the Conservation Commission presented a draft of a Proposed Wetlands Zoning Article for the Board to review. This is the result of work done by the Conservation Commission to designate Prime Wetlands in Atkinson. The Commission was before the Board last year with a Prime Wetlands Study that was discussed at length. At that time they were instructed to work on the suggestions, do some public education and come up with a proposal for the Board to work on. The Proposed Article was discussed briefly. The Planning Board will study it and it will be put on the agenda for the next Workshop Meeting on December 3, 2003.

Mr. Earley presented information for consideration by the Planning Board regarding NFPA 1141, Standard for Fire Protection in Planned Building Groups, 2003 Edition. He asked the Board to review this information for this ballot. This will be discussed at the next Workshop Meeting on December 3, 2003.

Ms. Killam asked Board members to read Section 675:1, 675:3 and 675:4, which explains what we do to, hold a Public Hearing on Zoning Ordinances before the next Workshop Meeting.

**Mr. Fletcher made a motion to adjourn. Mr. Earley seconded the motion.
Motion approved unanimously.**

The meeting was closed at 10:21 P.M.
Next scheduled Planning Board meeting November 19, 2003.

APPROVED _____ Respectfully submitted,

Carol Kater